EXHIBIT A

ORDER

AND NOW, this _____ day of ______ 2022, it is hereby **ORDERED** that the Plaintiff's Motion to Enforce Subpoena is **GRANTED**. CVS Pharmacy shall provide any and all records in their possession, custody or control responsive to Plaintiff's subpoena, including any and all documents relating to or referencing: (1) the purchase, installation, and maintenance of the Safe which is installed in the CVS pharmacy located at 55 Park Avenue, Collegeville, Pennsylvania 19426 (the "Collegeville CVS"); (2) the construction and/or renovation projects performed at the Collegeville CVS in the last ten (10) years, including but not limited to the renovation that took place in 2017; and (3) the identities of the employees who were present at the Collegeville CVS on July 6, 2021, the date on which Plaintiff, Rosaline El-Khoury, suffered a work-related injury.

It is further **ORDERED** and **DECREED** that full and complete responses to Plaintiff's subpoena, with signed a Certificate of Authenticity, shall served to Hamburg Rubin Mullin Maxwell and Lupin PC, 375 Morris Road, P.O. Box 1479, Lansdale, PA within ten (10) days of the date of this Order.

It is further **ORDERED and DECREED** that failure to comply with this Order may result in sanctions, including monetary sanctions and/or contempt of Court, upon further application to the Court.

BY THE COURT:	
	J.

ROSALINE EL-KHOURY : CIVIL ACTION

: NO.: 2:21-cv-5323

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FK INTERMEDIATE, LLC d/b/a :

v.

FIREKING SECURITY GROUP

NOTICE OF PRESENTATION

To: CVS Pharmacy – Store #2688 CVS Health
55 Park Avenue One CVS Drive

Collegeville, PA 19426 Woonsocket, RI 02895

19426

Brendan F. Howton, Esquire Attorney for Defendant, FK Intermediate, LLC d/b/a FireKing Security Group P.O. Box 2903 Hartford, CT 06104

Please take notice that Plaintiff's Motion to Enforce the Subpoena will be presented to the Court on (see date supplied by electronic filing response of Court) at _____ a.m./p.m. in Courtroom _____.

By:

HAMBURG, RUBIN, MULLIN, MAXWELL & LUPIN

STEVEN B. BARRETT

KEVIN M. McGRATH

375 Morris Road, PO Box 1479

Lansdale, PA 19446 Attorneys for Plaintiff,

Rosaline El-Khoury

ROSALINE EL-KHOURY : CIVIL ACTION

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FK INTERMEDIATE, LLC d/b/a FIREKING SECURITY GROUP

v.

: :

NO.: 2:21-cv-5323

PLAINTIFF'S MOTION TO ENFORCE SUBPOENA

Plaintiff, Rosaline El-Khoury, by and through her counsel, Hamburg Rubin Mullin Maxwell Lupin PC, hereby file this Motion to Enforce Subpoena directed to CVS Pharmacy. In support thereof, Plaintiff avers as follows:

- 1. Plaintiff initiated the instant action by filing a Complaint against Defendant, FK Intermediate, LLC d/b/a FireKing Security Group, on December 6, 2021.
- 2. Plaintiff's Complaint alleges that she suffered personal injuries as a result of work-related incident on or about July 6, 2021 while working at the CVS pharmacy located at 55 Park Avenue, Collegeville, Pennsylvania 19426 (the "Collegeville CVS").
- 3. The Complaint specifically alleges that a large metal safe, suddenly and without warning, shifted forward and fell onto Plaintiff, causing Plaintiff to fall backwards and violently strike her head on a shelf located behind her.
- 4. On or about February 3, 2022, Plaintiff served a subpoena upon CVS Pharmacy by way of certified mail sent to the Collegeville CVS, with a copy to CVS Health Corporate Headquarters, pursuant to F.R.C.P. Rule 45 (the "CVS Subpoena"). A true and correct copy of the CVS Subpoena is attached hereto as Exhibit "A".

- 5. The Subpoena requests information and documents relating to the purchase, installation, and maintenance of the Safe, any renovation projects to the store over the last ten (10) years, and the identities of the employees working at CVS Store #2688 on July 6, 2021. *See* Exhibit "A".
- 6. Having received no response, Plaintiff's Counsel sent an email to Thomas Moriarty, Esquire, General Counsel for CVS Pharmacy, on March 1, 2022. A true and correct copy of Plaintiff's Counsel's March 1, 2022 email is attached hereto as Exhibit "B".
 - 7. Mr. Moriarty did not respond.
- 8. Plaintiff's Counsel proceeded to send a follow-up letter to Collegeville CVS via certified mail on March 4, 2022 (the "Follow-Up Letter"). A true and correct copy of Plaintiff's Counsel's Follow-Up Letter is attached hereto as Exhibit "C".
- 9. A copy of the Follow-Up Letter was also sent to CVS Health Corporate Headquarters via certified mail that same day. *See* Exhibit "C".
- 10. The Follow-Up Letter was delivered and accepted by both the Collegeville CVS and CVS Health Corporate Headquarters, but CVS Pharmacy persisted in their refusal to respond.
- 11. Plaintiff's Counsel made one final attempt to contact CVS Pharmacy on March 9, 2022, but his email to Mr. Moriarty was once again ignored. *See* Exhibit "B".
 - 12. To date, Plaintiff has not received a response to Subpoena.
- 13. Upon information and belief, CVS Pharmacy possesses relevant information about the installation and maintenance of the safe at issue, which is critical to Plaintiff's case.
- 14. CVS Pharmacy's failure to provide responsive documentation to the properly issued Subpoena has prejudiced Plaintiff and her ability to prepare her case.

- 15. In light CVS Pharmacy's failure and/or refusal to respond to the Subpoena, Plaintiff has been forced to the instant Motion to Enforce.
- 16. Pursuant to F.R.C.P. Rule 45(d)(2) the Court may issue appropriate sanctions for a party's failure to comply with subpoena.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant her Motion to Enforce the Subpoena and enter the Proposed Order filed herewith.

HAMBURG, RUBIN, MULLIN, MAXWELL & LUPIN

Bv:

STEVEN B. BARRETT KEVIN M. McGRATH

375 Morris Road, PO Box 1479

Lansdale, PA 19446 Attorneys for Plaintiff, Rosaline El-Khoury

ROSALINE EL-KHOURY

CIVIL ACTION

NO.: 2:21-cv-5323

v.

FK INTERMEDIATE, LLC d/b/a
FIREKING SECURITY GROUP

CERTIFICATE OF GOOD FAITH

The undersigned counsel for moving party hereby certifies and attests that he has had the contact described below with the parties regarding discovery matters contained in the foregoing discovery motion to resolve specific discovery disputes at issue and despite all of counsel's good faith attempts to resolve this dispute, counsel has been unable to do so.

DESCRIPTION: Counsel for Plaintiff issued and served a Subpoena on CVS Pharmacy on February 3, 2022. Despite numerous follow-up letters and correspondence, no responsive documentation has been received.

HAMBURG, RUBIN, MULLIN, MAXWELL & LUPIN

STEVEN B. BARRETT

KEVIN M. McGRATH

375 Morris Road, PO Box 1479

Lansdale, PA 19446

Attorneys for Plaintiff,

Rosaline El-Khoury

ROSALINE EL-KHOURY : CIVIL ACTION

: NO.: 2:21-cv-5323

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FK INTERMEDIATE, LLC d/b/a :

v.

FIREKING SECURITY GROUP

CERTIFICATE OF SERVICE

I, Kevin M. McGrath, Esquire, do hereby certify that Plaintiff's Motion to Enforce Subpoena has been submitted electronically and is available for viewing and downloading from the PACER Electronic Filing System; otherwise service will be made by way of first class mail, postage pre-paid, on the following:

CVS Pharmacy – Store #2688 CVS Health
55 Park Avenue One CVS Drive

By:

Collegeville, PA 19426 Woonsocket, RI 02895

Brendan F. Howton, Esquire Attorney for Defendant FK Intermediate, LLC d/b/a FireKing Security Group P.O. Box 2903 Hartford, CT 06104

HAMBURG, RUBIN, MULLIN, MAXWELL & LUPIN

STEVEN B. BARRETT

KEVIN M. McGRATH

375 Morris Road, PO Box 1479

Lansdale, PA 19446 Attorneys for Plaintiff, Rosaline El-Khoury

EXHIBIT A



HAMBURG, RUBIN, MULLIN, MAXWELL & LUPIN, PC

ATTORNEYS AT LAW



32293-000

www.HRMML.com Lawyers@HRMML.com

J. Edmund Mullin Steven H. Lupin Douglas I Zeiders Carl N. Weiner Jonathan Samel, LL.M. Merle R. Ochrach Mark F. Himsworth Steven A. Hann Steven B. Barrett Christen G. Pionzio Joseph J. McGrory, Jr. Ethan R. O'Shea Bernadette A. Kearney Paul G. Mullin John J. Iannozzi William G, Roark Lisa A. Shearman LL.M. Nathan M. Murawsky Timothy P. Briggs Steven J. English Michael A. Luongo Noah Marlier Danielle M. Yacono Kevin M. McGrath John F. McCaul Edward M. Flitter Stephen V. Anella

> OF COUNSEL: John C. Rafferty, Jr.

LANSDALE
ACTS Center — Blue Bell
375 Morris Road
Post Office Box 1479
Lansdale, PA 19446-0773
Phone 215.661.0400
Fax 215.661.0315

HARRISBURG Phone 717.943.1790 Fax 717.943.1792 February 3, 2022

VIA CERTIFIED MAIL

CVS Pharmacy Store #2688 55 Park Avenue Collegeville, PA 19426

Re: Rosaline El-Khoury v. FK Intermediate, LLC d/b/a Fireking Security Group USDC, EDPA, Civil Action No. 20:21-CV-5323

Dear Sir/Madam:

Enclosed is a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action regarding the above-captioned matter. Please produce all of the requested records within twenty (20) days, or by Wednesday, February 23, 2022 at 10:00 a.m. If the records are produced prior to the date listed on the subpoena, you do not need to appear in our office on that date.

If possible, please provide the records electronically via email to kmcgrath@hrmml.com. If you are unable to produce the records electronically, kindly forward the hard copies to my office. If you require a reasonable fee to cover the cost of producing hard copies, please email an invoice to kmcgrath@hrmml.com with a copy to jalbertson@hrmml.com including your tax identification.

If you have any questions regarding this request, kindly contact me at your earliest convenience. Thank you for your time and attention to this matter.

Very truly yours,

HAMBURG, RUBIN, MULLIN, MAXWELL & LUPIN

KMM: jaa Enclosure

cc: CVS Health, One CVS Drive, Woonsocket, RI 02895 (via First Class Mail)
Brendan F. Howton, Esquire (via email)

{03255374;v1 }

AO 88B (Rev. 02/14) Subpoens to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

Plaintiff)	
v.)	Civil Action No. 20:21-CV-5323
FK Intermediate, LLC d/b/a Fireking	
Security Group	
Defendant	
SUBPOENA TO PRODUCE DOCUMEN OR TO PERMIT INSPECTION OF P	TS, INFORMATION, OR OBJECTS PREMISES IN A CIVIL ACTION
To: CVS Pharmacy, Store #2688	
(Name of person to whom	n this subpoena is directed)
☑ Production: YOU ARE COMMANDED to produce a documents, electronically stored information, or objects, and to material: See Exhibits "A" and "B"	at the time, date, and place set forth below the following permit inspection, copying, testing, or sampling of the
Place: Hamburg, Rubin, Mullin, Maxwell & Lupin PC	Date and Time:
375 Morris Road	February 23, 2022 at 10:00 a.m.
Lansdale, PA 19446	February 25, 2022 at 10.00 a.m.
Inspection of Premises: YOU ARE COMMANDED to other property possessed or controlled by you at the time, date, may inspect, measure, survey, photograph, test, or sample the policy.	and location set forth below, so that the requesting party
The following provisions of Fed. R. Civ. P. 45 are attacked to the subpoena and the potential consequences of not Date: CLERK OF COURT Kate Balking Signature of Clerk or Deputy Clerk	subpoena; and Rule 45(e) and (g), relating to your duty to
The name, address, e-mail address, and telephone number of the	e attorney representing (name of party) Kevin M. McGrath, Es
375 Morris Rd, Lansdale, PA 19446 KMcGrath@hrmml.com (215) 661-0400	, who issues or requests this subpoena, are:

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

AO 88B (Rev. 02/14) Subposes to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No.

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fea. R. Civ. F. 4.					
I received this:	subpoena for (name of individual and stile, if ar	ıy)	·		
on (date)					
☐ I served the	subpoena by delivering a copy to the nam	aed person as follows:			
		on (date)	; or		
☐ I returned th	e subpoena unexecuted because:				
Unless the subr	oena was issued on behalf of the United witness the fees for one day's attendance	States, or one of its officers or agents, , and the mileage allowed by law, in the	I have also ne amount of		
\$	•				
My fees are \$	for travel and \$	for services, for a total of \$	0.00		
I declare under	penalty of perjury that this information is	true.			
Date:		Server's signature			
		Printed name and title			
		Server's address			

Additional information regarding attempted service, etc.:

EXHIBIT "A"

Any and all documents related to or referencing the safe depicted in Exhibit "B" (the "Safe"), which is installed in the CVS pharmacy located at 55 Park Avenue, Collegeville, Pennsylvania 19426 (the "Collegeville CVS"). The scope of this requests includes, but is in no way limited to, documents concerning the purchase, installation, and maintenance of the Safe, including documents identifying, referencing or generated by any third parties hired to install or maintain (including the securing and/or bolting) the Safe.

Any and all documents concerning construction and/or renovation projects performed at the Collegeville CVS in in the last ten (10) years, including but not limited to the renovation that took place in 2017, which included the installation of a consultation room.

Any and all documents containing the identities of all employees who were present at the Collegeville CVS on July 6, 2021, the date on which Plaintiff, Rosaline El-Khoury, suffered a work-related injury.

EXHIBIT "B"



■ Complete items 1, 2, and 3: ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space mits. 1. Article Addressed to: CVS Praymacy Stare # 3688 55 Park Arenus College ville PA 19424 ■ Address different from Item 1?	
Attach this card to the back of the mailpiece, or on the front if space 'mits. 1. Article Addressed to: CVS Praymacy Stave # 2088 SS Park Areas College in the front Priority Mail Expression Adult Signature 9590 9402 5795 0034 7798 84 2. Article Number (Transfer from service label) 7019 2970 0001 0245 3032 PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Mail Only For delivery information, visit our website at www.usps.com Cartified Mail Page Certified	essee
CVS Praymacy Stare # 3688 55 Park Alena College ville PA 19421 3. Service Type Adult Signature Restricted Delivery Gertified Mail® 1 Certified Mail Restricted Delivery College on Delivery Restricted Delivery College Mail Confirm Restricted Delivery Confirm All Restricted Delivery CERTIFIED MAIL® RECEIPT Domestic Mail Only For delivery information, visit our website at www.usps.com Certified Mail Feb Services & Felse Exchest Delivery And fense appropriated Certified Mail Feb Services & Felse Exchest Delivery Restricted Delivery CERTIFIED MAIL® RECEIPT Domestic Mail Only For delivery information, visit our website at www.usps.com	livery 22
3. Service Type Adult Signature Priority Mail Expree Registered Mail* Polivery Policet on Delivery Collect on Delivery Restricted Delivery Signature Confirm Restricted Delivery O Domestic Mail Only For delivery information, visit our website at www.usps.com Certified Mail* RECEIPT Domestic Mail Only For delivery information, visit our website at www.usps.com Certified Mail Fee Starts Services & Fees check bax, add fee as appropriate) Extra Services & Fees check bax, add fee as appropriate) Extra Services & Fees check bax, add fee as appropriate) Extra Services & Fees check bax, add fee as appropriate) Extra Services & Fees check bax, add fee as appropriate)	
3. Service Type Adult Signature Priority Mail Expree Registered Mail* Polivery Policet on Delivery Collect on Delivery Restricted Delivery Signature Confirm Restricted Delivery O Domestic Mail Only For delivery information, visit our website at www.usps.com Certified Mail* RECEIPT Domestic Mail Only For delivery information, visit our website at www.usps.com Certified Mail Fee Starts Services & Fees check bax, add fee as appropriate) Extra Services & Fees check bax, add fee as appropriate) Extra Services & Fees check bax, add fee as appropriate) Extra Services & Fees check bax, add fee as appropriate) Extra Services & Fees check bax, add fee as appropriate)	
PS Form 3811, July 2015 PSN 7530-02-000-9053 U.S. Postal Service U.S. Postal Service CERTIFIED MAIL® RECEIPT Domestic Mail Only For delivery information, visit our website at www.usps.com®	ss®
2. Article Number (Transfer from service label) 7019 2970 0001 0244 3032	0)
U.S. Postal Service™ CERTIFIED MAIL® RECEIPT Domestic Mail Only For delivery information, visit our website at www.usps.com®. Certified Mail Fee SExtra Services & Fees (check box, add fee as appropriate) Return Receipt (hardcopy)	ation
CERTIFIED MAIL® RECEIPT Domestic Mail Only For delivery information, visit our website at www.usps.com®. Certified Mail Fee Stra Services & Fees (check box, add fee as appropriate) Beturn Beselot (hardcopy)	ceipt
Certified Mail Fee Extra Services & Fees (check box, add fee as appropriate) Return Becelot (hardcopy)	
Extra Services & Fées (check box, add fee as appropriate) Beturn Receipt (hardcopy)	
☐ ☐ Return Recelpt (electronic) \$ Postmark	
Cortified Mail Restricted Delivery \$ Here Adult Signature Required \$	
Total Postago and Fees	
Street 3688	
RS Form 38 0, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions	
UNITED STATES Certificate (Mailin This Certificate of Mailing provides evidence that mail has been presented to USPs® for mailir This form may be used for domestic and international mail. From: Kevin M. McGrath, Esq. Hamburg, Rubin, Mullin, Maxwell & Lupin, PC	
Kevin M. McGrath, Esq. Hamburg, Rubin, Mullin, Maxwell & Lupin, PC 375 Morris Road	
375 Morris Road —— P.O. Box 1479 —— Lansdale, PA 19446-0773	
To: CVS Health Tobbe	
Woon Socker, KI 02895	

PS Form 3817, April 2007 PSN 7530-02-000-9065

Judith Albertson

From:

Kevin McGrath

Sent:

Wednesday, March 9, 2022 4:20 PM

To:

Thomas.moriarty@cvshealth.com

Cc: Subject: Judith Albertson RE: Rosaline El-Khoury v. FK Intermediate, USDC, EDPA, No. 20:21-CV-5323

Importance:

High

Mr. Moriarty,

I am following up on Ms. Albertson's email from last week, as this is a very time-sensitive matter. Please advise. Thank you.

Kevin M. McGrath, Esquire Hamburg, Rubin, Mullin, Maxwell & Lupin, P.C. 215.661.0400; Fax 215.661.0315 KMcGrath@HRMML.com www.HRMML.com

From: Judith Albertson < JAlbertson@hrmml.com>

Sent: Tuesday, March 1, 2022 9:24 AM **To:** Thomas.moriarty@cvshealth.com

Cc: Kevin McGrath < KMcgrath@hrmml.com>

Subject: Rosaline El-Khoury v. FK Intermediate, USDC, EDPA, No. 20:21-CV-5323

Dear Mr. Moriarty,

On February 3, 2022, our office sent out the attached correspondence and Subpoena via Certified Mail to the Collegeville CVS, Store #2688, with a copy to your Woonsocket, RI headquarters regarding the above-captioned matter. To date, we have not received an acknowledgement or response to our subpoena. Would you please acknowledge receipt of the subpoena and offer some guidance as to when we can expect a response? Thank you,



Judie Albertson, Legal Assistant to
Michael A. Luongo, Esquire and
Kevin M. McGrath, Esquire
Hamburg, Rubin, Mullin, Maxwell & Lupin, PC
375 Morris Road, PO Box 1479
Lansdale, PA 19446-0773
215.661.0400; Fax 215.661.0315

JAlbertson@HRMML.com; HRMML.com
HRMM&L * Celebrating 50 Years *

A Please consider the environment before printing this e-mail

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HAMBURG, RUBIN, MULLIN, MAXWELL & LUPIN, PC

ATTORNEYS AT LAW



www.HRMML.com Lawyers@HRMML.com

March 4, 2022

32293-000

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OF COUNSEL: John C. Rafferty, Jr.

LANSDALE
ACTS Center – Blue Bell
375 Morris Road
Post Office Box 1479
Lansdale, PA 19446-0773
Phone 215-661-0400
Fax 215-661-0315

LIMERICK HARRISBURG Via Certified Mail/Return Receipt Requested: 7019 2970 0001 0246 2998

CVS Pharmacy Store #2688 55 Park Avenue Collegeville, PA 19426

Re: Rosaline El-Khoury v. FK Intermediate, LLC d/b/a Fireking Security Group USDC, EDPA, Civil Action No. 20:21-CV-5323

Dear Sir/Madam:

By certified letter dated February 3, 2022, you received a Subpoena to Produce Documents or Things for discovery directing you to produce the records identified therein. *See enclosed*. Both my letter and the accompanying subpoena requested that all responsive records be produced within twenty (20) days, or by February 23, 2022.

It is now more than a month later, and I have yet to hear from you. Before taking any legal action to enforce the subpoena, I wanted to provide you an opportunity to comply. Please provide me copies of the requested records by March 14, 2022. If possible, please provide the records electronically via email to kmcgrath@hrmml.com. If you are unable to produce the records electronically, kindly forward the hard copies to my office. If you require a reasonable fee to cover the cost of producing hard copies, please email an invoice to kmcgrath@hrmml.com with a copy to jalbertson@hrmml.com including your tax identification number and a check will be sent to you.

Thank you in advance for your anticipated cooperation.

Very truly yours,

HAMBURG, RUBIN, MULLIN, MAXWELL & LUPIN

By:

KEVIN M. MCGRATH

KMM: jaa Enclosure

cc: CVS Health, One CVS Drive, Woonsocket, RI 02895

(via CM/RRR 7019 2970 0001 0246 2981)

{03278722;v1 }

